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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 15 2005

In re United States Patent Application of:) Docket No.: 2771-686 (7493)
Applicants: KORZENSKI, Michael, et al.) Conf. No.: 1912
Application No.: 10/724,791) Art Unit: 1765
Date Filed: December 1, 2003) Examiner: VINH, Lan
Title: REMOVAL OF MEMS SACRIFICIAL LAYERS USING SUPERCRITICAL FLUID/CHEMICAL FORMULATIONS) Customer No.: 25559

FACSIMILE TRANSMISSION CERTIFICATE

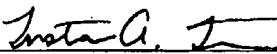
ATTN: Examiner Brian K. Talbot

Fax No. (703) 872-9306

I hereby certify that this document is being filed in the United States Patent and Trademark Office, via facsimile transmission to Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on June 15, 2005 to United States Patent and Trademark Office facsimile transmission number (703) 872-9306.

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Number of Pages



Tristan A. Fuierer

June 15, 2005

Date

RESPONSE TO RESTRICTION REQUIREMENT IMPOSED IN JUNE 9, 2005 OFFICE ACTION IN U.S. PATENT APPLICATION NO. 10/724,791

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In the June 9, 2005 Office Action, the Examiner imposed a restriction requirement against claims 1-38, and required that an election be made between:

Group I: claims 1-16, drawn to a sacrificial silicon-containing layer etching composition, classified in class 252, subclass 79.1; and

Group II: claims 17-38, drawn to a method for removing silicon-containing substance, classified in class 438, subclass 745.

Applicants hereby elect, with traverse, Group I claims 1-16 drawn to a sacrificial silicon-containing layer etching composition.

The traversal is based on the fact that the rationale for restriction is in error. The Office Action states that "the product as claimed can be used in a materially different process of using that product such as a process of cleaning photoresist post-etch residue" (see page 2 of the Office Action).

In fact, the composition recited in claim 1 is the same as that recited in method claim 17, insofar as the specifically recited ingredients of the composition is concerned, and thus is not independent and distinct from claim 1, as is necessary under 35 U.S.C. §121 as a basis for proper restriction.

It therefore is requested that the restriction requirement be reconsidered, and that all claims 1-38 be retained in consolidated form for further examination and prosecution on the merits.

If the restriction requirement nonetheless is made final, applicants alternatively request rejoinder of method claims 17-38 under the provisions of MPEP §821.04 upon confirmation of allowable subject matter of the Group I claims 1-16.

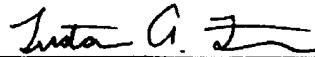
Such rejoinder would be fully proper under these circumstances for the following reasons.

When an application as originally filed discloses a product and the process for making and/or using such product, and only the claims directed to the product are presented for examination,

when a product claim is found allowable, applicant may present claims directed to the process of making and/or using the patentable product for examination through the rejoinder procedure in accordance with MPEP §821.04, provided that the process claims depend from or include all the limitations of the allowed product claims.

In the present application the elected claims 1-16 are directed to sacrificial silicon-containing layer etching compositions and the non-elected claims 17-38 are directed to a method of using said compositions for removing silicon-containing substances from a substrate. Consistent with the provisions of the MPEP §821.04, when the product claims 1-16 are subsequently found allowable, the withdrawn method of use claims 17-38 may be rejoined for examination.

Respectfully submitted,



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